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The Laws of Texas, 1822-1897. Compiled and arranged by H. P. N. Gammel, of Austin, with an introduction by C. W. Raines. Volume X. (Austin: The Gammel Book Company. 1898. Pp. 1502.)

Volume X of the Laws of Texas, compiled and arranged by H. P. N. Gammel, completes the reprint of these laws as originally contemplated.

The labor and expense of these reprints was very great, and a less hardy and enterprising publisher would never have entered upon the task. Mr. Gammel not only undertook it, but carried it out successfully. Prior to the publication of this reprint complete sets of Texas statutes were very rare and commanded a correspondingly high price. Mr. Gammel's enterprise has changed all this, and now the lawyer of even moderate means can command all the Texas statutes and constitutions in their chronological order, and can thus trace historically the written law of the State on all subjects.

The tenth volume of the compilation covers all the laws, general and special, enacted by the Twenty-second, Twenty-third, Twenty-fourth, and Twenty-fifth Legislatures, extending from the regular session of 1891 through the special session of 1897.

Among the important enactments of this period the following may be appropriately mentioned: the act authorizing the transfer of the Confederate Home to the State and establishing it as a State institution, February 27, 1891; the several acts changing the doctrine of fellow servants as to persons operating railroads within this State, March 10, 1891, May 4, 1893, and June 18, 1897; the separate coach law, March, 1891; the railroad commission act, April 3, 1891; the joint resolution submitting amendments to the judiciary article of the constitution, April 28, 1891; the several acts providing for the organization of the supreme court, court of criminal appeals, and courts of civil appeals, under said amendment, which had been adopted at an election held in August, 1891, April 13, 1893; the alien land law, April 12, 1892, and an act regarding the acquisition and holding of lands by private corporations, March, 1893.

There is a large mass of legislation with regard to common schools and the University showing continued interest and increasing appreciation of public education. There are also many laws creating new counties and new judicial districts and of similar

nature which indicate clearly the rapid growth in population and business during this period.

In the series of reviews of the volumes composing this reprint effort has been made to point out some of the interesting and important facts in the development of Texas and her institutions. It has been impossible to do more than suggest the possibilities of profit which the student may find in their contents.

When we consider that the laws of a country are only the authoritative expressions of public sentiment we are forced to recognize that the constitutions and statutes of a people are among the most authentic and valuable records of its progress. In this view these reprints cease to be an uninteresting reproduction of dead enactments and become an authentic register of the advancement of our State during the past century.

JOHN C. TOWNES.

Under the title *Was Texas a Part of the Louisiana Purchase?* Prof. Ficklen, of Tulane University, has made a valuable contribution to Texas history,—one that deserves to rank as standard authority upon this question.

He indirectly apologizes for having to combat what he mistakenly supposes is the consensus of Texas opinion upon the subject, and shows quite conclusively the negative of the proposition.

There is, however, a side issue which, while, perhaps, of no very great historical importance generally, it is well to refer to, in view of the relation of Texas to the coming centennial of the Louisiana Purchase.

For over a century Texas, as province, republic, and State, was between the upper and nether millstones of national and international politics. As a result, her boundaries now are quite different from what they were when Louisiana was purchased, and that part of area of the present State of Texas which was included in the Louisiana Purchase is greater than that part of the present State of Louisiana, which was a part of that purchase.

The State of Louisiana now has within her borders probably as much as 7000 square miles of what was a part of Texas in 1803, and probably as much as 6000 square miles of what was a part of West Florida at the same date, while Texas has about 38,000 square miles of what was a part of the Louisiana Purchase. In other

words, all that part of Texas which sheds its waters into the Mississippi river was a part of the Louisiana Purchase.

Title by discovery and exploration, under which Spain claimed all of North America, was ignored by the nations that parcelled out among themselves the continent. Subject to the historical fact that titles to territory rested upon might rather than right, permanent occupancy and use became the basis for title. If any European nation was able to hold the country it possessed, the title was good, otherwise not. Spain realized this fact in 1716, and took permanent possession of Texas and held it.

In 1712 France, having a firm hold on all the Mississippi basin, ceded its western watershed to Antoine Crozat for trading purposes, and in the name of France actual possession was taken of both banks of Red River and held exclusively, continuously, and adversely to Spain up to 1762, when she voluntarily ceded it to Spain. From 1735 up to 1762 that possession was not only peaceable, but was acquiesced in by Spain, and her title to the sources of all the tributaries of the Mississippi river was as good as her title to the banks of the great river itself.

The most easterly approach to this territory made by Spain was Adaes, about twenty-five miles west of the present town of Natchitoches. Between Adaes and Natchitoches France, up to 1762, kept a force sufficiently formidable to keep the Spaniards from coming further east. The most northerly point held by Spain was Nacogdoches. This was over fifty miles south of the divide separating the waters of the Texas, or Gulf rivers and Red River, and, therefore, well into the Gulf basin; and by no known rule, did she have constructive possession further north than that dividing line. This was the status in 1762, and was the boundary status the United States had to deal with in 1803, succeeding to the French title as it existed in 1762.

Passing for the present the claims set up by the United States to West Florida and Texas, the boundaries as they now are were fixed by the treaty of 1819. This treaty drew the Texas east line back to the Sabine and extended the north line up to Red River, giving to Spain the southern basin of that river as far west as the 100th meridian, and also all of the Mississippi basin west of that meridian between the Red and Arkansas rivers. In other words, that treaty dismembered the Louisiana Purchase by cutting out probably as much as 80,000 square miles and giving it to Spain.

The dismembered portion of the purchase that now belongs to Texas is subdivided into fifty-two counties. These have a population greater than the average State of the Union,—taxable values exceeding \$160,000,000, a cotton product in 1900 exceeding 800,000 bales, a corn product of over 29,000,000 bushels, a wheat product of over 11,000,000 bushels, and a product of over 14,000,000 bushels of oats, besides a variety of other valuable agricultural products. It embraces the cities of Wichita Falls, Gainesville, Denison, Sherman, Bonham, Paris, Clarksville, Texarkana, Sulphur Springs, and Jefferson; the great gypsum beds of the Northwest, the copper mines of Archer, the asphalt of Montague, the iron mines of Cass, the lignite beds of Hopkins, the great lumber producing forests of Bowie and Marion, and the diversified hard woods of Delta, Titus, Franklin, and Morris. To omit these from the functions of the St. Louis Centennial would leave a large chasm and contradict the history of an essential and significant part of the Louisiana Purchase. To give them their place, then, would do no violence to the general conclusions of Prof. Ficklen, and in nowise affect the merits of his lucid exposition of the historical question.

As he seems to acquiesce in the Adams construction of the letter of the Spanish minister to Talleyrand, and as this has been magnified in importance by Mr. Benton¹ and others who were opposed to giving up Texas, a further notice of this letter may not be out of place.

Assuming that all said by the historian Adams, and Prof. Ficklen substantially embraces everything material, the facts seem to be that Laussat was in New Orleans with his instructions as prefect over the country about the time the purchase was consummated. There were also there many Americans, and to some of these Laussat intimated that he had instructions to take possession of both West Florida and Texas. The Americans then began to set up claims to both countries. When the Spanish minister heard of it, he wrote to Talleyrand, enjoining him "to restrain the pretensions of the Americans regarding the limits of Louisiana." He didn't say what limits. This, it seems, resulted in Laussat's giving forth the information that he was to take possession of West Florida, but that Texas, as far west as the Rio Grande up to the

¹*Thirty Years' View*, I 15.

30th parallel, was included in his instructions. The Spanish minister, it seems, made no reply to this, and because he made none Mr. Adams construed his action into a tacit admission upon the part of Spain that Texas was a part of Louisiana. This is what has passed into history as an admission by Spain that Texas was included in the Louisiana Purchase. If there is not enough inherent weakness in this argument, the subsequent contest of Spain and the United States clearly shows the position of Spain. As soon as the commander of the United States forces at New Orleans saw the Spanish soldiers safely out of the city, and the inhabitants settled down to the new order of things, he began to move troops to the western outposts. As he approached the old boundary line that in practice had been settled upon between France and Spain from 1735 to 1762, he was met by a formidable Spanish force and notified that further encroachments would be treated as invasion of Spanish territory. He then abandoned the idea of taking possession of Texas and made a treaty for a neutral ground and suspension of hostilities, virtually the same neutral ground that separated the French and Spanish settlements in 1762. This was in November, 1806. Between this date and the treaty of 1819, neither country encroached upon this ground, but it is interesting to note what the United States did in the meantime. Though they had agreed not to attempt an invasion of Texas, upon the admission of Louisiana in 1812, the Sabine was defined as its western boundary. Laussat's instructions, as defined by him, excluded West Florida from the Louisiana Purchase, yet the United States proceeded to appropriate that, cutting off all west of Pearl river and adding it to Louisiana, and later on dividing the balance between Alabama and Mississippi. In other words, the United States took forcible possession of Spanish territory which Laussat said did not belong to France, while on the other hand they gave up to Spain what Laussat said belonged to France. Independently, however, of all this, it is difficult to understand how a mere instruction of France to Victor or Laussat to take possession of Texas could form the basis of title to a country she never owned, and never made any serious attempt to occupy, and Prof. Ficklen's able paper has shown it up in such a way as to virtually eliminate it from historical discussion.

Z. T. FULMORE.